



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005**

May 25, 2006

EA-06-014

Mr. Michael McIntire, President
Southwest X-Ray Corporation
P.O. Box 130
Glenrock, Wyoming 82637

SUBJECT: NOTICE OF VIOLATION (NRC Inspection Report 030-32768/05-01)

Dear Mr. McIntire:

This refers to the inspection conducted on August 23, 2005, at a temporary job site in Casper, Wyoming, and to the inspection conducted on November 16, 2005, at your corporate office in Casper, Wyoming. The purpose of these inspections was to determine whether activities authorized by the license were conducted safely and in accordance with NRC requirements. The findings from the inspection were discussed with you during our telephonic exit briefing on January 30, 2006, and were documented in NRC Inspection Report 030-32768/05-01 dated March 3, 2006.

The inspection report identified one apparent violation which was being considered for escalated enforcement. In the letter transmitting the inspection report, we provided you the opportunity to address the apparent violation by either requesting a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. By letters dated March 11 and April 25, 2006, you responded to the apparent violation.

Based on the information developed during the inspection and the information that you provided in your responses to the inspection report, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation and the circumstances surrounding it are described in detail in the subject inspection report. In summary, a radiographer's assistant failed to wear all required dosimetry during radiographic operations, as required by 10 CFR 34.47(a). Specifically, after returning from lunch and waiting for weather delays, the assistant forgot to put his direct reading pocket dosimeter and a personnel dosimeter (an optically stimulated luminescence dosimeter) on the trunk of his body. He left the dosimeters in the truck while radiography was being conducted. The assistant was wearing an alarming rate meter because it was clipped on his belt and he had not removed it when he went to lunch. The NRC inspector identified the violation while conducting a field inspection.

The failure to wear all required dosimetry during operations involving licensed material is important and has potential safety consequences. This is because the direct reading pocket dosimeter provides immediate information on an individual's exposure in the event of an incident involving a radiography source, and the personnel dosimeter is used as the official record of an individual's exposure from radiographic operations. Therefore, this violation has been categorized in accordance with the Enforcement Policy at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$6,500 is considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last 2 years, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. In your letter dated April 25, 2006, you stated that you reviewed with your employees NRC rules and regulations, explained the civil penalties that can be assessed by the NRC, discussed the consequences of not following NRC rules and regulations, and specifically reviewed this violation as an example. Given the small size of your company, the NRC has determined that you are deserving of corrective action credit.

Therefore, to encourage comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in Inspection Report 030-32768/05-01 dated March 3, 2006, and your letters dated March 11 and April 25, 2006. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Sincerely,

/RA/

Bruce S. Mallett
Regional Administrator

Docket No. 030-32768
License No.: 49-27434-01

Enclosure: Notice of Violation

cc (w/Enclosure):
Wyoming Radiation Control Program Director

Southwest X-Ray Corporation, EA-06-014

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SUNSI Review Completed: gmv ADAMS: X Yes ☐ No Initials: gmv
 X Publicly Available ☐ Non-Publicly Available ☐ Sensitive X Non-Sensitive

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| ACES | C:NMIB | D:DNMS | RC | OE |
|-----------|------------------------------|-----------|----------|-----------|
| M Vasquez | M Shaffer | L Wert | K Fuller | D Solario |
| /RA/ | <i>V Campbell for</i> | /RA/ | /RA/ | /RA/ |
| 5/9/06 | 5/11/06 | 5/12/06 | 5/15/06 | 5/22/06 |
| NMSS | DRA | RA | | |
| M Burgess | P Gwynn | B Mallett | | |
| /RA/ | /RA/ | /RA/ | | |
| 5/18/06 | 5/17/06 | 5/25/06 | | |

*Previously concurred OFFICIAL RECORD COPY T=Telephone E=E-mail F=Fax

NOTICE OF VIOLATION

Southwest X-Ray Corporation
Glenrock, Wyoming

Docket No. 030-32768
EA-06-014

During an NRC inspection conducted on August 23, 2005, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 34.47(a) requires, in part, that a licensee may not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm ratemeter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program processor.

Contrary to the above, on August 23, 2005, a radiographer's assistant failed to wear, on the trunk of his body, at all times during radiographic operations, a direct reading dosimeter and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program processor.

This is a Severity Level III violation (Supplement IV).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in Inspection Report 030-32768/05-01 dated March 3, 2006, and your letters dated March 11 and April 25, 2006. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-06-014" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region IV, within 30 days of the date of the letter transmitting this Notice of Violation.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In accordance with 10 CFR 19.11, you are required to post this Notice within two working days.

Dated this 25th day of May 2006

ENCLOSURE